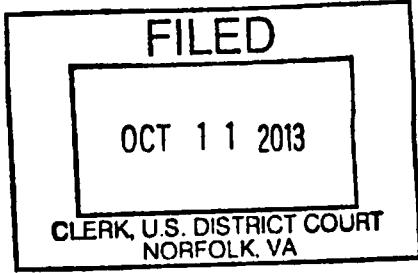


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division



WILFRED BERNARD,
Plaintiff,
v.

Civil No. 4:12cv165

CAROLYN W. COLVIN,
Acting Commissioner of
Social Security Administration,
Defendant.

FINAL ORDER

Plaintiff Wilfred Bernard brought this action under 42 U.S.C. §§ 1383(c)(3) and 405(g) seeking judicial review of the final decision of the Social Security Commissioner (“Commissioner”) denying his claim for disability insurance benefits (“DIB”) pursuant to Title II of the Social Security Act. Pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, and by order of reference dated March 25, 2013, this matter was referred to United States Magistrate Judge Lawrence R. Leonard for a Report and Recommendation.

In a Report and Recommendation (“R&R”) filed September 6, 2013, Magistrate Judge Leonard found that the decision by the Administrative Law Judge (“ALJ”) to deny Mr. Bernard’s claim was supported by substantial evidence. R&R 15, September 6, 2013, ECF No. 14. Accordingly, Magistrate Judge Leonard recommended denying Mr. Bernard’s Motion for Summary Judgment, granting the Commissioner’s Motion for Summary Judgment, affirming the decision of the Commissioner, and dismissing this case with prejudice. *Id.*

By copy of the Report, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court received Plaintiff's objections to the Magistrate Judge's R&R, and has considered the objections carefully.

Plaintiff contends that the R&R erred when it affirmed the ALJ's decision to deny DIB benefits. Plaintiff argues that the ALJ's sit-stand option in his sedentary RFC finding was vague, specifically that the ALJ failed to indicate the frequency of the Plaintiff's need to alternate between sitting and standing for the period prior to September 1, 2007. After reviewing the record *de novo*, the record shows that the ALJ's RFC assessment is consistent with an at-will sit-stand option for the period prior to September 1, 2007, requiring no greater specificity.

This Court has reviewed the R&R of Magistrate Judge Leonard and hereby **ADOPTS** and **APPROVES** in full the findings and recommendations set forth therein. ECF No. 14. Accordingly, it is hereby **ORDERED** that Mr. Bernard's Motion for Summary Judgment (ECF No. 10) is **DENIED**, the Commissioner's Motion for Summary Judgment (ECF No. 12) is **GRANTED**, the decision of the Commissioner is **AFFIRMED**, and this case is **DISMISSED WITH PREJUDICE**.

The Clerk is **REQUESTED** to forward a copy of this Order to all parties.

IT IS SO ORDERED.



Arenda L. Wright Allen
United States District Judge

October 11, 2013
Norfolk, Virginia